

In the Matter of the Compensation of
BRITTANY DEYO-BUNDY, Claimant
WCB Case No. 19-04664
ORDER ON REVIEW
Unrepresented Claimant
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Ousey and Curey.

Claimant, *pro se*,¹ requests review of Administrative Law Judge (ALJ) Naugle's order that upheld the SAIF Corporation's denial of her new or omitted medical condition claim for sacroiliac joint dysfunction of the right side. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.

In June 2016, working as a hospitalist, claimant injured her low back while propping up a patient at work. (Ex. 30). In August 2016, SAIF accepted a lumbar strain. (Ex. 49).

In May 2019, claimant requested acceptance of sacroiliac joint dysfunction of the right side, which SAIF denied in July 2019. (Exs. 114, 116). Claimant requested a hearing.

The ALJ found that, although the record established the existence of the claimed right sacroiliac joint dysfunction, it did not persuasively establish that the work event was a material contributing cause of the disability or need for treatment of that condition. Accordingly, the ALJ upheld SAIF's denial.

On review, claimant contends that her new or omitted medical condition claim is compensable. In doing so, she relies on Dr. Bean's opinion and her own opinion as a licensed medical physician. Based on the following reasoning, we disagree with claimant's contention.

¹ Because claimant is unrepresented, she may wish to consult the Ombuds Office for Oregon Workers, whose job it is to assist injured workers in such matters. She may contact the Ombuds Office, free of charge, at 1-800-927-1271, or write to:

OMBUDS OFFICE FOR OREGON WORKERS
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM OR 97309-0405

To prevail on her new or omitted medical condition claim for sacroiliac joint dysfunction of the right side, claimant must prove that the condition exists and that the work event was a material contributing cause of the disability or need for treatment of that condition.² See ORS 656.005(7)(a); ORS 656.266(1); *Betty J. King*, 58 Van Natta 977, 977 (2006); *Maureen Y. Graves*, 57 Van Natta 2380, 2381 (2005). The parties do not dispute that this claim presents a complex medical question that must be resolved by expert medical opinion. See *Barnett v. SAIF*, 122 Or App 279, 282 (1993); *Matthew C. Aufmuth*, 62 Van Natta 1823, 1825 (2010). More weight is given to those medical opinions that are well reasoned and based on complete information. See *Somers v. SAIF*, 77 Or App 259, 263 (1986); *Linda E. Patton*, 60 Van Natta 579, 582 (2008).

Here, claimant primarily relies on the opinion of Dr. Bean. Dr. Bean diagnosed right sacroiliac joint dysfunction in August 2017 and opined that the condition was more likely than not due to the work event. (Exs. 113, 122). However, we are unpersuaded by Dr. Bean's opinion for the reasons stated in the ALJ's order (*i.e.*, his opinion is conclusory and not well explained as to how claimant's sacroiliac joint condition was causally related to the June 2016 incident given the absence of initial examination findings and the passage of time). See *Moe v. Ceiling Sys., Inc.*, 44 Or App 429, 433 (1980) (rejecting unexplained or conclusory opinion); *Karen M. Kloppenburg*, 73 Van Natta 807, 809 (2021) (same).

Moreover, claimant proffers her own testimony as expert medical evidence because she is a licensed physician. SAIF objects to the consideration of claimant's testimony as an expert medical opinion because it is biased and difficult to separate from her lay testimony. Yet, we need not resolve this evidentiary issue because, even if we considered claimant's testimony to be an expert medical opinion, we find it insufficient to establish the compensability of the claimed condition. See *Ariel Fillinger*, 73 Van Natta 730, 730 n 1 (2021) (unnecessary to address evidentiary issue where it did not affect the outcome of the case); *Victorino F. Diaz-Flores*, 66 Van Natta 691, 696 n 2 (2014) (unnecessary to address whether witness qualified as an expert because medical causation was not established). We reason as follows.

² The parties do not contest, and the record establishes, the existence of the claimed right sacroiliac joint dysfunction condition.

Claimant opined that the medical records and objective findings supported the existence of the right sacroiliac joint dysfunction condition. (Tr. 13-26, 31-33). She stated that the medical records documented sacroiliac joint pain and tenderness, positive compression, distraction, Gaenslen's, Patrick's, sacral thrust, and thigh thrust tests, and immediate pain relief from a May 2022 right sacroiliac joint injection. (Tr. 13-16, 23-25). In addition, she noted that Dr. Bean and Dr. Siewert, a treating physical therapist, diagnosed right sacroiliac joint dysfunction. (Tr. 13, 25).

Although claimant's opinion addressed the existence of the right sacroiliac joint dysfunction condition, her opinion did not address whether the work event was a material contributing cause of the disability or need for treatment of that condition. (Tr. 13-26, 31-33). Under such circumstances, claimant's opinion is insufficient to establish the compensability of the right sacroiliac joint dysfunction condition.³ See ORS 656.005(7)(a); ORS 656.266(1); *Sheri S. Homan*, 74 Van Natta 84, 87 (2022) (physician's opinion that did not address whether the work event was a material contributing cause of the disability or need for treatment of the claimed condition was insufficient to establish compensability).

In addition, we acknowledge claimant's contention that her opinion is supported by medical articles that she asserts identified potential causes of sacroiliac joint dysfunction. (Exs. 1-7). Although claimant testified how the medical articles supported a sacroiliac joint dysfunction diagnosis in her case, she did not address how the articles supported a conclusion that the specific work event was a material contributing cause of her disability or need for treatment for the claimed condition. (Tr. 16-19, 39). In this regard, we are unpersuaded by claimant's opinion concerning the medical articles because it was not sufficiently explained or directed to her particular circumstances as to the causal connection between the work event and the claimed condition. See *Somers*, 77 Or App at 263; see also *Sherman v. Western Employer's Ins.*, 87 Or App 602, 606 (1987) (physician's comments that were general in nature and not adequately addressed to the claimant's situation in particular were not persuasive); *Joann M. Jones*, 68 Van Natta 1774, 1780 (2016) (physician's opinion based on studies was not persuasive where it was not sufficiently directed to the claimant's particular circumstances).

³ We recognize that magic words are not required for a persuasive medical opinion. *McClendon v. Nabisco Brands, Inc.*, 77 Or App 412, 417 (1986). However, under these particular circumstances, we find that claimant's opinion as a whole does not persuasively establish the requisite causal relationship between the June 2016 work event and the disability or need for treatment of the claimed condition. See ORS 656.005(7)(a); ORS 656.266(1); *Homan*, 74 Van Natta at 87.

In sum, for the foregoing reasons and those articulated in the ALJ's order, the record does not persuasively establish that claimant's new or omitted medical condition claim for sacroiliac joint dysfunction of the right side is compensable.⁴ *See* ORS 656.005(7)(a); ORS 656.266(1). Consequently, we affirm the ALJ's order.

ORDER

The ALJ's order dated May 12, 2023, is affirmed.

Entered at Salem, Oregon on December 11, 2023

⁴ SAIF asserts that claimant has not established the requirements to remand this matter to the ALJ for further evidence taking. However, we do not interpret claimant's arguments to be a request for remand. Nevertheless, to the extent that claimant's arguments could be interpreted as a request for remand, we find no compelling reason to remand this matter to the ALJ because claimant has not identified any new evidence concerning disability that was not obtainable with due diligence at the time of the hearing and is reasonably likely to affect the outcome of the case. *See* ORS 656.295(5); *SAIF v. Avery*, 167 Or App 327, 333 (2000). Moreover, we have considered claimant's testimony in reaching our decision, but have found it insufficient to establish the compensability of the claimed condition. Thus, remand is not warranted.